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In re Application of	:	
Ritsuo NAKAJIMA	:	DECISION ON
Application No.: 10/088,818	:	
PCT No.: PCT/JP99/05369	:	PETITION
International Filing Date: 30 September 1999	:	
Priority Date: None	:	UNDER 37 CFR 1.181
For: DROP-BOTTOM CONTAINER	:	

This decision is in response to applicant's Request For Corrected Filing Receipt filed 25 April 2003 and applicant's Transmittal Letter filed 31 December 2002. These communications are being collectively treated as a petition under 37 CFR 1.181 to treat applicant's declaration filed 31 December 2002 as if it had been originally filed on 23 September 2002.

BACKGROUND

On 30 September 1999, applicant filed international application PCT/JP99/05369. The international application designated the United States. A copy of the international application was communicated on 05 April 2001 from the International Bureau to the United States Patent & Trademark Office. A Demand, in which the United States was elected, was timely filed. Therefore, applicant's thirty month period for entering the United States national stage expired at midnight on 01 April 2002 (30 March 2002 being a Saturday).

On 22 March 2002, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by, *inter alia*, the requisite basic national fee.

On 17 December 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 31 December 2002, applicant filed a Transmittal Letter indicating that a declaration

was previously filed on 23 September 2002 and accompanied by a copy of an executed declaration and a copy of a return receipt postcard.

On 24 March 2003 the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371 of 31 December 2002.

On 25 April 2003, applicant filed a Request For Corrected Filing Receipt indicating that the date under 35 U.S.C. 371 (c) was incorrect and that the date should be corrected to 23 September 2002.

DISCUSSION

MPEP at section 503 states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Applicant's date stamped postcard receipt lists a \$65.00 Check, \$40.00 Check, Certificate of Mailing, Transmittal Letter in duplicate and copy of executed Combined Declaration and includes a U.S. Patent and Trademark Office (PTO) date stamp of 23 September 2002.

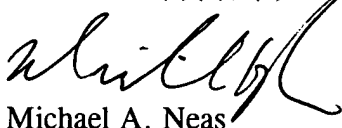
Applicant's date stamped postcard receipt is sufficient to establish that the copy of the executed declaration filed 21 December 2002 was originally filed on 23 September 2002.


CONCLUSION

In view of the above, applicant's petition is **GRANTED**.

The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) mailed 24 March 2003 is hereby **vacated**.

The application is being returned to the DO/EO/US for issuance of a new Notification of Acceptance Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371(c)(1), (2) and (4) of 23 September 2002 and corrected filing receipt.


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